IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19743 of 2004

Between:

Surapaneni Krishna Rao S/o Sambaiah
Licence, Mamatha Bar & Restarunt, Prakasam road, Tenali, Guntur district

..... PETITIONER

AND

1 The Commissioner, Prohibition & Excise, Hyderabad
2 The Deputy Commissioner of Prohibition & Excise Guntur
3 Prohibition & Excise Superintendent, Guntur
4 The Asst. Excise Superintendent, Tenali
5 The Station House Officer, Prohibition & Excise Station, Tenali
6 Palla Srinivasa Rao S/o Adaiah
Proposed Licencee: M/s Golden Blue Fox Bar and Restaurant,
7-23-30 & 7-23-30A, Prakasam Road, Tenali Guntur District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandmaus declaring the action of the respondents 2 to 5 in recommending grant of IL-17 license to the 6th respondent contrary to the circular of the 1st respondent in Cr. No. 1369/2003/CPE/G.2, dt 3-4-2003, as arbitrary, illegal and in violation of Article 14 of the Constitution of India and to consequently direct respondents 1 to 5 herein not to grant IL-17 Licence for Bar & Restaurant under name and style of M/s. Golden Blue Fox Bar & Restaurant in D.NO. 7-23-30 & 7-23-30A Prakasam Road Tenali to the 6th respondent contrary to the A.P. Prohibition & Excise Rules and instruction issued by the 1st respondnet void Cr. No. 1369/2003/CPE/G.2 dt 3-4-2003.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondents 1 to 5: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following Order:

The petitioner claims to be an IL-17 Licencee running a bar and restaurant in Prakasam Road, Tenali under the name and style as Mamatha Bar and Restaurant.

It is stated that the sixth respondent submitted an application to respondents 1 to 5 for issuance of a fresh licence for starting a bar and restaurant under the name and style as M/s. Golden Blue Fox Bar and Restaurant in Door No.7-23-30 and 7-23-30A adjacent to the bar and restaurant owned by the petitioner. The petitioner states that the location of the proposed bar and restaurant by the sixth respondent is contrary to the rules and regulations and instructions issued from time to time, particularly the instructions issued under Circular No.1369/2003/CPE/G.2 dated 3-4-2003. The grievance of the petitioner is that in spite of the fact that the location of the bar is not in conformity with the rules and regulations, the fifth respondent-Station House Officer, Prohibition and Excise Station, Tenali has submitted a report stating that the proposed premises does not attract the bar under the Statutory Rules. On the basis of the same, the third respondent-Prohibition and Excise Superintendent, Guntur, vide his letter dated 16-10-2004 recommended for grant of IL-17 licence in favour of the sixth respondent. The petitioner contends that on the basis of the said recommendations, the first respondent-Commissioner, Prohibition & Excise, Hyderabad, is likely to grant licence in favour of the sixth respondent. He also contends that any such licence granted in favour of the sixth respondent would be in violation of the statutory rules and regulations and cannot be sustained. Hence, a writ of Mandamus is sought declaring the action of the respondents 2 to 5 in recommending grant of IL-17 licence to the sixth respondent, is arbitrary and illegal.

Having heard the learned counsel for the petitioner and the learned Govnernment Pleader for Prohibition & Excise appearing for respondents 1 to 5, I am of the view that since the matter is still under consideration by the first respondent-Commissioner, who is the competent authority to grant the licence in question, the writ of Mandamus as sought for by the petitioner cannot be granted at this stage.

However, since the petitioner states that he has already made a representation dated 24-10-2004 bringing to the notice of the first respondent that the licence proposed to be granted in favour of the sixth respondent is not in accordance with law, the interest of justice would be met if the 1st respondent is directed to consider the said objections before passing any order.

In the circumstances, without expressing any opinion on merits, the writ petition is disposed of with a direction to the first respondent to consider the objections raised by the petitioner in his representation dated 24-10-2004 while considering the recommendations made by the 3rd respondent for grant of licence in favour of the sixth respondent and to pass appropriate orders in accordance with law. No costs.

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kdl 28-10-2004

To

1 The Commissioner, Prohibition & Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Guntur.
3 The Prohibition & Excise Superintendent, Guntur.
4 The Assistant Excise Superintendent, Tenali.
5 The Station House Officer, Prohibition & Excise Station, Tenali.

6 Two CCs to the Government Pleader for Prohibition & Excise, A.P.High Court Buildings, Hyderabad (OUT)

7. Two CD copies.

THE HON'BLE MS JUSTICE G.ROHINI

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Date:28-10-2004